

E-filed on June 12, 2006

Marc A. Levinson (California Bar No. 57613)
 Lynn Trinka Ernce (California Bar No. 179212)
 ORRICK, HERRINGTON & SUTCLIFFE LLP
 400 Capitol Mall, Suite 3000
 Sacramento, CA 95814-4497
 Telephone: (916) 447-9200
 Facsimile: (916) 329-4900
 Email: malevinson@orrick.com; lernce@orrick.com

Bob L. Olson (Nevada Bar No. 3783)
 Anne M. Loraditch (Nevada Bar No. 8164)
 BECKLEY SINGLETON, CHTD.
 530 Las Vegas Boulevard South
 Las Vegas, NV 89101
 Telephone: (702) 385-3373
 Facsimile: (702) 385-5024
 Email: bolson@beckleylaw.com; aloraditch@beckleylaw.com

[Proposed] Attorneys for the Official Committee of Equity
 Security Holders of USA Capital Diversified Trust Deed Fund,
 LLC

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:
 USA COMMERCIAL MORTGAGE COMPANY,
 Debtor.

In re:
 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

In re:
 USA CAPITAL DIVERSIFIED TRUST DEED
 FUND, LLC,
 Debtor.

In re:
 USA CAPITAL FIRST TRUST DEED FUND, LLC,
 Debtor.

In re:
 USA SECURITIES, LLC,
 Debtor.

Affects:

- ☐ All Debtors
- ☐ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☒ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA First Trust Deed Fund, LLC

Case No. BK-S-06-10725 LBR
 Case No. BK-S-06-10726 LBR
 Case No. BK-S-06-10727 LBR
 Case No. BK-S-06-10728 LBR
 Case No. BK-S-06-10729 LBR

Chapter 11

Jointly Administered Under
 Case No. BK-S-06-10725-LBR

OST REQUESTED

Date: June 21, 2006
 Time: 9:30 a.m.
 Place: Courtroom #2

**EX PARTE APPLICATION FOR ORDER SHORTENING TIME TO HEAR THE
APPLICATION BY THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS
OF USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC
TO EMPLOY BECKLEY SINGLETON, CHTD.**

TO THE HONORABLE LINDA B. RIEGLE, UNITED STATES BANKRUPTCY JUDGE:

The Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC (the "USA Diversified Committee"), by and through its proposed Special (Nevada) Bankruptcy Counsel, Beckley Singleton, Chartered ("Beckley"), has filed its "Application by the Official Committee of Equity Security Holders of USA Capital Diversified Trust Fund, LLC, to Employ Beckley Singleton, Chartered" (the "Beckley Application"). This ex parte application is made and based upon Fed. R. Bankr. P. 9006, the following memorandum of points and authorities and Declaration of Anne M. Loraditch (the "Loraditch Declaration"), the Attorney Information Sheet filed contemporaneously herewith, and the papers and pleading on file herein, judicial notice of which is respectfully requested.

WHEREFORE, the USA Diversified Committee respectfully requests that this Court grant this ex parte application and issue an order shortening time to hear the Beckley Application at the Omnibus Hearing on June 21, 2006, and for such other and further relief at the Court deems just and proper.

Respectfully submitted this 12th day of June 2006.

BECKLEY SINGLETON, CHTD.

By /s/ Anne M. Loraditch

Bob L. Olson (Nevada Bar No. 3783)
Anne M. Loraditch (Nevada Bar No. 8164)
530 Las Vegas Boulevard South
Las Vegas, NV 89101
Telephone: (702) 385-3373

and

Marc A. Levinson (California Bar No. 57613)
Lynn Trinka Ernce (California Bar No. 179212)
ORRICK, HERRINGTON & SUTCLIFFE LLP
400 Capitol Mall, Suite 3000
Sacramento, CA 95814-4497
Telephone: (916) 447-9200

MEMORANDUM OF POINTS AND AUTHORITIES

Bankruptcy Code section 105 allows this Court to issue such orders as are necessary to carry out the provisions of this title. 11 U.S.C. § 105. Rule 9006(c)(1) of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") generally permits a bankruptcy court, for cause shown and in its discretion, to reduce the period during which any notice is given in accordance with the Bankruptcy Rules. Bankruptcy Rule 9006(c)(1) provides as follows:

Except as provided in paragraph (2) of this subdivision, when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.

11 U.S.C. § 105.

Local Rule 9006 provides further authority for shortening the time for a hearing. According to Local Rule 9006(b), every motion for an order shortening time must be accompanied by an affidavit stating the reasons for an expedited hearing. As set forth in the Loraditch Declaration, *infra*, there is a compelling reason for an expedited hearing on the Beckley Application.

Local Rule 9006 requires the moving party to submit an Attorney Information Sheet indicating whether opposing counsel was provided with notice, whether opposing counsel consented to the hearing on an order shortening time, the date counsel was provided with notice and how notice was provided or attempted to be provided. An Attorney Information Sheet is being filed contemporaneously with this ex parte application.

For the reasons set forth in the Loraditch Declaration to follow, the USA Diversified Committee asks that the Court extend the deadline for filing an opposition to the Beckley Application, if necessary, to June 15, 2006, two business days after the filing of the Beckley Application and six days before the Omnibus Hearings set for June 21st, in order to afford all parties in interest sufficient opportunity to review and formulate a position on the Beckley Application.

With an extended deadline afforded to parties in interest for filing oppositions to the Beckley Application, the USA Diversified Committee also asks for the opportunity to file a reply

1 no later than the close of business on June 19, 2006, two business days after such oppositions as
2 may be filed and two days prior to the hearing on June 21st.

3 ///

4 ///

5 ///

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

DECLARATION OF ANNE M. LORADITCH

I, Anne M. Loraditch, hereby declare as follows:

1. I am over eighteen years of age and have personal knowledge of the facts set forth herein, and if called as a witness, would testify competently with respect thereto from my own personal knowledge except as otherwise stated.

2. I am an Associate of Beckley Singleton, Chartered. This declaration is submitted in support of the USA Diversified Committee's¹ ex parte application to shorten time for hearing the Beckley Application.

3. On April 13, 2006, USA Capital Diversified Trust Deed Fund, LLC ("USA Diversified"), USA Commercial Mortgage Company ("USA Mortgage"), USA Securities, LLC ("USA Securities"), USA Capital Realty Advisors, LLC ("USA Realty") and USA Capital First Trust Deed Fund, LLC ("USA First" and, collectively with USA Mortgage, USA Securities, USA Realty and USA Diversified, the "Debtors") filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, which cases are being jointly administered as captioned above.

4. On May 10, 2006, the Office of the United States Trustee (the "US Trustee") appointed the following four committees in the Debtors' Cases:

- (a) The Official Committee of Holders of Executory Contract Rights Through USA Mortgage ("Direct Lenders' Committee");
- (b) The Official Unsecured Creditors Committee for USA Mortgage;
- (c) The Official Committee of Equity Security Holders of USA First; and
- (d) The USA Diversified Committee.

5. The Direct Lenders' Committee initially sought to retain the law firm of Stutman, Treister and Glatt ("ST&G") collectively with one or both of the fund committees. However, on May 23, 2006, the Direct Lenders' Committee determined that joint representation was not in its

¹ Terms not otherwise defined herein shall have the same meaning ascribed to them in the Beckley Application.

1 best interest and retained Gordon & Silver, Ltd. late in the evening on May 23, 2006. This Court
2 has since approved such employment.

3 6. Thereafter, the USA First Committee retained ST&G, leaving the USA Diversified
4 Committee without counsel. This Court has since approved the employment of ST&G as counsel
5 for the USA First Committee.

6 7. On June 1, 2006, the USA Diversified Committee met telephonically and decided
7 to engage Orrick, Herrington & Sutcliffe LLP ("Orrick") as its bankruptcy counsel. The USA
8 Diversified Committee's application to employ Orrick as bankruptcy counsel is pending before
9 the Court.

10 8. On June 9, 2006, the USA Diversified Committee met telephonically and decided
11 to engage Beckley as its Special (Nevada) Counsel. The USA Diversified Committee has filed
12 the Beckley Application seeking this Court's approval of its retention of Beckley.

13 9. An Omnibus Hearing has been scheduled for June 21, 2006, at which time many
14 matters will be heard. As this Court is well aware, the Debtors' Cases are moving forward at an
15 extraordinary pace and, therefore, it is critical that the USA Diversified Committee's interests be
16 represented. As such, it is necessary that the Beckley Application be heard at the June 21st
17 hearing.

18 10. Beckley only very recently entered this case, and the Committee filed the Beckley
19 Application at the earliest possible opportunity. I believe there is good cause for the Court to
20 extend the deadline for filing an opposition to the Beckley Application, if necessary, to the close
21 of business on June 15, 2006, two business days after the filing of the Beckley Application and
22 six days before the Omnibus Hearings set for June 21st, in order to afford all parties in interest
23 sufficient opportunity to review and formulate a position on the Beckley Application. The
24 Debtors and other Investor Committees specifically requested that accommodation, and I believe
25 that allowing two days after the Beckley Application is filed for responses is reasonable and
26 appropriate.

27 11. With an extended deadline afforded to parties in interest for filing oppositions to
28 the Beckley Application, I believe it to be equitable for the Court to permit the USA Diversified

1 Committee the opportunity to file a reply no later than the close of business on June 19, 2006, two
2 business days after such oppositions as may be filed and two days prior to the hearing on June
3 21st.

4 12. The Court's indulgence in this instance is warranted because the USA Diversified
5 Committee moved as promptly as possible to retain Orrick as its bankruptcy counsel and Beckley
6 as its Special (Nevada) Counsel when it was left without counsel due to the objections filed by the
7 Direct Lenders' Committee and the US Trustee to ST&G's employment.

8 13. Moreover, given the nature of the Debtors' Cases, the Committee's interests are
9 best served by having Judge Riegle rather than a visiting judge decide any issues involving the
10 Beckley Application. Beckley should not be forced to wait until the next Omnibus Hearing date
11 on July 25, 2006, to find out if its retention as the Committee's Special (Nevada) Counsel is
12 approved since by then Beckley will have spent hundreds, if not thousands, of hours on these
13 matters.

14 14. Counsel for the Debtors and counsel for two of the three other Investor
15 Committees have agreed that the Beckley Application may be heard on shortened time as of the
16 filing of the request for an order shortening time.

17 I declare under penalty of perjury that the foregoing is true and correct to the best of my
18 knowledge, information and belief.

19 DATED this 12th day of June 2006.

20
21 /s/ Anne M. Loraditch
Anne M. Loraditch
22
23
24
25
26
27
28